

MONTGOMERY McCracken Walker & Rhoads LLP

By: Cora A. Dayon, Esquire

LibertyView, Suite 600

457 Haddonfield Road

Cherry Hill, NJ 08002

(856) 488-7700

Attorneys for Defendant Praxair

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

LORETTA J. FROST,

Plaintiff,

V.

Civil Action No.

PRAXAIR, INC., a business entity; JOHN
DOES (I-V), fictitiously named Individuals;
~~ABC COMPANIES (I-V), fictitiously named~~
business entities,

Defendants.

PRAXAIR DEFENDANTS' NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, defendant, Praxair, Inc. (“Praxair”), through undersigned counsel, hereby removes the above-captioned action from the Superior Court of New Jersey, Law Division, Middlesex County, to the United States District Court for the District of New Jersey.

As more fully set forth below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441 because Praxair satisfies the procedural requirements for removal, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332. In support of this Notice of Removal, Praxair states as follows:

THE FILING OF THE COMPLAINT

1. On or about March 31, 2017, Loretta Frost (“Plaintiff”) commenced this action against Praxair by filing a Complaint and Jury Demand in the Superior Court of New Jersey, Law Division, Middlesex County, bearing Case No. L-2011-17. A true and correct copy of the Complaint is attached hereto as Exhibit A.

PRAXAIR SATISFIES THE PROCEDURAL REQUIREMENTS FOR REMOVAL

2. The Complaint was served on Praxair via personal service on its registered agent on April 20, 2017. Accordingly, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b).

3. The Superior Court of New Jersey, Law Division, Middlesex County, is located within the District of New Jersey. Therefore, venue is proper pursuant to 28 U.S.C. § 110 because it is the “district and division embracing the place where such action is pending.” *See* 28 U.S.C. § 1441(a).

4. No previous application has been made for the relief requested herein.

5. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders served upon the removing defendant has been attached as Exhibit A. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon counsel for Plaintiff and a copy is being filed with the Superior Court of New Jersey, Law Division, Middlesex County.

REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER JURISDICTION PURSUANT TO 28 U.S.C. §§ 1332 AND 1441

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because this is a civil action in which the amount in controversy exceeds the sum of \$75,000, exclusive of costs and interest, and is between citizens of different states.

Complete Diversity Of Citizenship Exists

7. Plaintiff alleges in her Complaint that she is a resident of Middlesex County in the State of New Jersey. (*See* Compl.). Accordingly, upon information and belief, Plaintiff is a citizen of the State of New Jersey.

8. Praxair, Inc. is, and was at the time Plaintiff commenced this action, a corporation organized under the laws of the State of Delaware with its principal place of business in Danbury, Connecticut. Therefore, Praxair, Inc. is a citizen of Delaware and Connecticut for purposes of determining diversity. 28 U.S.C. § 1332(c)(1).

9. All other defendants listed in the caption are fictitious defendants, who are disregarded for diversity purposes, 28 U.S.C. § 1441(b)(1), and who have not been served with process. 28 U.S.C. § 1441(b)(2).

10. Plaintiff and Praxair, Inc. are citizens of different states. Thus, complete diversity exists between Plaintiffs and Defendants now and at the time the Complaint was filed. 28 U.S.C. § 1332(a)(1).

The Amount-In-Controversy Requirement Is Satisfied

11. Where the plaintiff has not specifically alleged the amount in controversy is less than the jurisdictional minimum, the party asserting jurisdiction has the burden to justify jurisdictional facts by a preponderance of the evidence. *Clark v. J.C. Penney Corp.*, No. CIV.A. 08-4083 (PGS), 2009 WL 1564175, at *2 (D. N.J. June 1, 2009), *citing Samuel-Bassett v. KIA Am., Inc.*, 357 F.3d 392 (3d Cir.2004)., 2009 WL 1564175, at *2.

12. The District of New Jersey has held that allegations of severe injuries along with pain and suffering will alert the defendant that an amount in excess of the jurisdictional amount is at issue. *Ortiz v. Richmond Elevator Co.*, No. 15-CV-672 CCC-JBC, 2015 WL 5945433, at *4

(D.N.J. Sept. 29, 2015); *see Carroll v. United Air Lines, Inc.*, 7 F.Supp.2d 516 (D.N.J.1998) (plaintiff's allegations of "injuries causing disability, impairment, loss of enjoyment of life, pain and suffering, and [that] he will suffer in the future" were sufficient to put the defendant on notice that an amount in excess of the jurisdictional amount was at issue); *see also Avant v. J.C. Penney*, No. CIV A 07-1997 JEI, 2007 WL 1791621, fn. 3 (D.N.J. June 19, 2007) ("The District of New Jersey has found that allegations of serious injuries in addition to pain and suffering indicate that the amount in controversy exceeds \$75,000"); *see also Garofalo v. Medtronic, Inc.*, No. Civ.A.97-1655 (AJL), 1997 WL 1049566, *4 (D.N.J.1997) (listing cases in which the Complaint alleges sufficient facts to satisfy the amount in controversy requirement even though no specific amount is identified). Pain and suffering damages "could be great should [a case] proceed to trial before a jury" because juries are "basically unrestricted in their ability to award pain and suffering damages." *Clark*, 2009 WL 1564175, at *4.

13. Here, Plaintiff alleges that she "did sustain serious and permanent injuries of both mind and body, did suffer great pain of mind and body, was caused to incur medical expenses in an attempt to cure herself of the injuries so sustained, will incur future medical expenses due to the permanent nature of the injuries she sustained, was deprived of carrying out her normal and usual activities and affairs for a period of time, and was otherwise damaged." (Compl., ¶5). Given the Plaintiff's allegation that she has sustained "serious and permanent injuries" along with pain and suffering, it is probable that Plaintiff will ask for an amount in excess of \$75,000, exclusive of interest and costs.

14. Accordingly the amount-in-controversy requirement is met in this case.

RESERVATION OF RIGHTS

15. Defendant Praxair expressly reserves all of its rights and defenses in this action.

WHEREFORE, Defendant, Praxair, Inc., respectfully removes this action from the Superior Court of New Jersey, Law Division, Middlesex County, to this Court pursuant to 28 U.S.C. § 1332, 1441, and 1446, and requests that this Court retain jurisdiction for all further proceedings.

Respectfully submitted,

Date: May 19, 2017

s/Cora A. Dayon
Cora A. Dayon
**Montgomery, McCracken,
Walker & Rhoads, LLP**
Liberty View, Suite 600
457 Haddonfield Road
Cherry Hill, NJ 08002
(856) 488-7700

Attorneys for Defendant Praxair, Inc.

CERTIFICATE OF SERVICE

I, Cora A. Dayon, hereby certify that on the date listed below I caused a true and correct copy of the foregoing Notice of Removal to be served by electronic mail and first class U.S. mail, postage prepaid, upon the following:

Joseph A. Lombardi
Lombardi & Lombardi, P.A.
1862 Oak Tree Road
Edison, New Jersey 08820

Dated: May 19, 2017

s/Cora A. Dayon

JS 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Loretta J. Frost

DEFENDANTS(b) County of Residence of First Listed Plaintiff Middlesex

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Danbury, Connecticut

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, Email and Telephone Number)

Joseph A. Lombardi
Lombardi & Lombardi, P.A.
1862 Oak Tree Road, Edison, New Jersey 08820

Attorneys (If Known)

Cora A. Dayon
Montgomery, McCracken, Walker & Rhoads, LLP
457 Haddonfield Road, Suite 600, Cherry Hill, NJ 08002

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------------------------------|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1332 & 28 USC 1441Brief description of cause:
Personal injury**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

05/19/2017

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

EXHIBIT A

LOMBARDI & LOMBARDI, P.A.
 1862 Oak Tree Road
 P.O. Box 2065
 Edison, New Jersey 08818
 Tel: (732) 906-1500
 Fax: (732) 906-7625
 File No.: 16-27008JAL
 Attorneys for Plaintiffs
 Joseph A. Lombardi, Esq. (ID#019352004)

LORETTA J. FROST, an individual;	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
Plaintiff	:	MIDDLESEX COUNTY
	:	
vs.	:	DOCKET NO.: MID-L-2011-17
	:	
PRAXAIR, INC., a business entity;	:	<u>CIVIL ACTION</u>
JOHN DOES (I-V), fictitiously named	:	
individuals; ABC COMPANIES (I-V),	:	SUMMONS
fictitiously named business entities,	:	
	:	
Defendants	:	
	:	

From the State of New Jersey, To the Defendant (s) Named Above:

PRAXAIR, INC.

The plaintiff, named above, has filed a lawsuit in the Superior Court of New Jersey. The Complaint attached to this Summons states the basis for this lawsuit. If you dispute this Complaint, you or your attorney must file a written Answer or Motion and proof of service with the Deputy Clerk of the Superior Court in the county listed above within 35 days from the date you received this Summons, not counting the date you received it. (A directory of the addresses of each Deputy Clerk of the Superior Court is available in the Civil Division Management office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf). If the Complaint is one in foreclosure, then you must file your written Answer or Motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN-971, Trenton, New Jersey 08625. A filing fee* payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the Deputy Clerk of the Superior Court) must accompany your Answer or Motion when it is filed. You must also send a copy of your Answer or Motion to plaintiff's attorney, whose name and address appear above or to plaintiff if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written Answer or Motion (with fee of \$135.00 and completed Case Information Statement) if you want the Court to hear your defense.

If you do not file and serve a written Answer or Motion within 35 days, the Court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

Michelle M. Smith
 Clerk of the Superior Court

Dated: April 12, 2017

Name of Defendant to be served: Praxair, Inc.
 Address of the Defendant to be served: 60 Crows Mill Rd #907, Keasbey, NJ 08832

LOMBARDI & LOMBARDI, P.A.
 1862 Oak Tree Road
 P.O. Box 2065
 Edison, New Jersey 08818
 Tel: (732) 906-1500
 Fax: (732) 906-7625
 File No.: 16-27008JAL
 Attorneys for Plaintiffs
 Joseph A. Lombardi, Esq. (ID#019352004)

CIVIL RECORDS
 N.J. SUPERIOR COURT
 MIDDLESEX VICINAGE
 2017 MAR 31 A 11:03
 FILED & RECEIVED #5

LORETTA J. FROST, an individual;	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
Plaintiff	:	MIDDLESEX COUNTY
	:	
vs.	:	DOCKET NO.: L 2011-17
	:	
PRAXAIR, INC., a business entity;	:	<u>CIVIL ACTION</u>
JOHN DOES (I-V), fictitiously named	:	
individuals; ABC COMPANIES (I-V),	:	COMPLAINT AND JURY DEMAND
fictitiously named business entities,	:	
	:	
Defendants	:	

Plaintiff, Loretta J. Frost, an individual, residing at 867 B King George Road, Fords, Township of Woodbridge, County of Middlesex, and State of New Jersey, by way of Complaint against the defendants, jointly and severally, herein says:

FIRST COUNT

1. On or about October 2, 2015, and for long period prior thereto, the defendant, Praxair, Inc., a business entity, was the owner and was actually in control of certain business premises located at 60 Crows Mill Road, Keasby, New Jersey.

2. Based upon information and belief, the Township of Woodbridge Board of Education leases a portion of the property located at 60 Crows Mill Road, Keasby, New Jersey. Specifically, the Township of Woodbridge Board of Education leases office

space as well as a portion of the parking lot located at 60 Crows Mill Road, Keasby, New Jersey.

3. The plaintiff, Loretta J. Frost, was and currently is an employee of the Township of Woodbridge Board of Education. Plaintiff, Loretta J. Frost, is a bus driver for the Township of Woodbridge Board of Education. Plaintiff, Loretta J. Frost, as an employee of the Township of Woodbridge Board of Education, utilizes the parking lot area and office space located at 60 Crows Mill Road, Keasby, New Jersey, which is owned by defendant, Praxair, Inc.

4. On or about October 2, 2015, and for a long period prior thereto, the defendant, Praxair, Inc., did negligently, improperly and carelessly design, construct, maintain and supervise the aforementioned premises and more particularly the parking lot area of 60 Crows Mill Road, Keasby, New Jersey. The defendant, Praxair, Inc., did fail to give warning to business invitees of the dangerous and hazardous conditions that existed in said parking lot area.

5. As a direct and proximate result of the aforesaid negligence, carelessness and omissions of the defendant, Praxair, Inc., the plaintiff, Loretta J. Frost, on October 2, 2015, was caused to fall and did sustain serious and permanent injuries of both mind and body, did suffer great pain of mind and body, was caused to incur medical expenses in an attempt to cure herself of the injuries so sustained, will incur future medical expenses due to the permanent nature of the injuries she sustained, was deprived of carrying out her normal and usual activities and affairs for a period of time, and was otherwise damaged.

WHEREFORE, the plaintiff, Loretta J. Frost, does hereby demand judgment against the defendants, jointly and severally, for compensatory damages together with interest and costs of suit.

SECOND COUNT

1. The plaintiff repeats the allegations of the First Count as if same were set forth herein at length.

2. John Does (I-V) and ABC Companies (I-V) are fictitiously named defendants respectively representing any persons and/or business entities who had ownership and/or control of any of the instrumentalities of the damages complained of herein or who are otherwise liable for damages complained of herein.

3. This count is also reserved by plaintiff who has alleged negligence and breach of warranty against any other persons and/or business entities which participated in the design, construction, maintenance, inspection and supervision of the parking lot area upon which the plaintiff, Loretta J. Frost, was caused to fall and sustained injury. Said persons and business entities are respectively designated herein as John Does (I-V), fictitiously named individuals, and ABC Companies (I-V), fictitiously named business entities.

WHEREFORE, the plaintiff, Loretta J. Frost, does hereby demand judgment against the defendants, jointly and severally, for compensatory damages together with interest and costs of suit.

JURY DEMAND

Plaintiffs hereby demand a trial by jury of six (6) persons on all issues so triable.

CERTIFICATION; R. 4:5-1 (b) (3)

The undersigned certifies that the within pleading contains no personal confidential identifiers. The undersigned recognizes a responsibility to ensure the same as to subsequent pleadings.

CERTIFICATION; R. 4:5.1

The undersigned certifies that to the best of his knowledge and belief, there is not pending any other action which arises from the incident alleged in this Complaint or which involves the parties to this action.




LOMBARDI & LOMBARDI, P.A.
Attorneys for Plaintiffs

DATED: March 30, 2017

By: JOSEPH A. LOMBARDI



Appendix XII-B1

 CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1 Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY	
		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	CHG/CK NO.
ATTORNEY / PRO SE NAME Joseph A. Lombardi, Esq. (ID:019352004)		TELEPHONE NUMBER (732) 906-1500	COUNTY OF VENUE Middlesex
FIRM NAME (if applicable) Lombardi & Lombardi, P.A.		DOCKET NUMBER (when available) L2011-17	
OFFICE ADDRESS 1862 Oak Tree Road Edison, New Jersey 08820 (ID: 019352004)		DOCUMENT TYPE Complaint	
NAME OF PARTY (e.g., John Doe, Plaintiff) LORETTA J. FROST, Plaintiff		CAPTION PRAXAIR, INC., a business entity; JOHN DOES (I-V), fictitiously named individuals; ABC COMPANIES (I-V), fictitiously named business entities; Defendants	
CASE TYPE NUMBER (See reverse side for listing) 605	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> YES <input type="checkbox"/> NO			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION Fall down accident of October 2, 2015			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).			
ATTORNEY SIGNATURE: 			

RECEIVED
P O BOX 2633
56 PATTERSON STREET
NEW BRUNSWICK NJ 08903-2633

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (732) 519-3728
COURT HOURS 8:30 AM - 4:30 PM

DATE: APRIL 04, 2017
RE: FROST LORETTA J VS PRAXAIR INC
DOCKET: MID L -002011 17

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 2.

DISCOVERY IS 300 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON MICHAEL A. TOTO

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 001
AT: (732) 519-3728 EXT 3728.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.

PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: JOSEPH A. LOMBARDI
LOMBARDI & LOMBARDI

1862 OAK TREE ROAD
EDISON NJ 08820

JUMGAR2

CERTIFICATE OF SERVICE

I, Cora A. Dayon, hereby certify that on the date listed below I caused a true and correct copy of the foregoing document to be served by electronic mail and first class U.S. mail, postage prepaid, upon the following:

Joseph A. Lombardi
Lombardi & Lombardi, P.A.
1862 Oak Tree Road
Edison, New Jersey 08820

Dated: May 19, 2017

s/Cora A. Dayon